VII. JUVENILE TRAFFICKING PROTOCOL

A. DEFINITION: Juvenile trafficking includes both sex trafficking and labor trafficking, which is defined as follows:

Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.[110]

Labor trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.[111]

B. JOINT INVESTIGATIONS: Joint investigations may include all or any combination of MDT members from the signatory agencies. **Specific offenses that require a joint investigation are listed below.**

1. CIVIL OFFENSES

- **Children who are suspected or identified to be victims of juvenile trafficking**;
- **Exploitation:** occurs when [any individual] behaves unethically toward a child, using the parent's/caregiver's position of power to solicit sexual acts in an attempt to obtain some type of sexual gratification. This category includes situations in which [any individual] prostitutes a child or knowingly permits a child to be "used" by another party, regardless of whether [any individual] receives sexual gratification or other compensation (money, drugs) or no compensation at all;[112]
- **Pornography:** means production or possession of visual material (e.g., pictures, films, video) by [any individual] depicting a child engaged in a sexual act or a simulation of such an act. The visual material involves sexualized content, as opposed to "naked baby" pictures;[113]
- **Runaway:** in-state or out-of-state runaways whose caregiver/parent refuses to resume responsibility for the child's care;
- **Sexual Abuse:** means any sexual contact, sexual intercourse, or sexual penetration, as those terms are defined in the Delaware Criminal Code, between [any individual] and a child;[114]
- **Torture** (10 Del. C. § 901(1)b.3.); and,

[110] *See* 22 USC § 7102
[111] *See* 22 USC § 7102
[112] *See* 10.1.8. DFS CPR Regulations. http://kids.delaware.gov/fs/fs_cpr.shtml.
[113] *See* 10.1.16. DFS CPR Regulations. http://kids.delaware.gov/fs/fs_cpr.shtml.
[114] *See* 10.1.18. DFS CPR Regulations. http://kids.delaware.gov/fs/fs_cpr.shtml.

- **Verbal Innuendo:** means inappropriate sexualized statements to a child by [any individual] intended to entice or alarm.[115]

2. CRIMINAL OFFENSES

- § 767 Unlawful sexual contact in the third degree; class A misdemeanor;
- § 768 Unlawful sexual contact in the second degree; class F felony;
- § 769 Unlawful sexual contact in the first degree; class D felony;
- § 770 Rape in the fourth degree; class C felony;
- § 771 Rape in the third degree; class B felony;
- § 772 Rape in the second degree; class B felony;
- § 773 Rape in the first degree; class A felony;
- § 774 Sexual extortion; class E felony;
- § 776 Continuous sexual abuse of a child; class B felony;
- § 777A Sex offender unlawful sexual conduct against a child;
- § 778 Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree; penalties;
- § 778A Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree; penalties;
- § 787 Trafficking of an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony; class A felony;
- § 1100A Dealing in children; class E felony;
- § 1106 Unlawfully dealing with a child; class B misdemeanor;
- § 1108 Sexual exploitation of a child; class B felony;
- § 1109 Dealing in child pornography; class B felony;
- § 1111 Possession of child pornography; class F felony;
- § 1112A Sexual solicitation of a child; class C felony;
- § 1112B Promoting sexual solicitation of a child; class C felony; class B felony; and,
- § 1343 Patronizing a prostitute prohibited.

[115] *See* 9.1.12. DFS CPR Regulations. http://kids.delaware.gov/fs/fs_cpr.shtml.

C. MULTIDISCIPLINARY RESPONSE

1. SCREENING & IDENTIFICATION

Juvenile trafficking is not immediately identified, because it is not defined as a single act but rather a constellation of behaviors and circumstances, which are intentionally concealed by the perpetrator through coercion, manipulation, fraud and/or force. In addition, the children may not view themselves as victims or may be fearful of reporting. Therefore, MDT members should screen children at high risk of being trafficked. Once identified as a victim of sex trafficking, the Federal Justice for Victims of Trafficking Act of 2015 requires that the child also be considered a victim of child abuse, neglect and sexual abuse – regardless of whether the perpetrator is a parent or other caregiver. In addition, the arrest of juvenile sex trafficking victims for prostitution, drug related offenses and theft shifts the accountability from the offender to the child, thereby criminalizing the child victim.

DFS may encounter victims of juvenile trafficking in any active case; however, the children at most risk for trafficking are children in foster care and/or children who are runaways or missing juveniles. Children involved in the juvenile justice system may also be at risk due to their increased vulnerability.

Similarly, these same children will have encounters with LE. The complaints may involve runaways and missing juveniles, calls for delinquent behavior, and domestic situations involving older dating partners.

These children may present to medical providers for various health issues, including sexually transmitted infections, early pregnancy, untreated injuries or medical conditions, substance abuse problems or addictions, and depression or stress-related disorders.

The Juvenile Trafficking Pre-Assessment Checklist was created to help MDT members identify potential victims of juvenile trafficking. This confidential Pre-Assessment Checklist is intended to document *indicators* only and should be followed up with a comprehensive investigation and assessment of the child's needs, where appropriate. Multiple sources of information can be used to determine if indicators of juvenile trafficking may be present, such as the location where the child is found, the context of the initial contact, current allegations, and/or medical, criminal and DFS history known about the child. If indicators are identified and juvenile trafficking is suspected, an immediate report to the Division of Family Services (DFS) Report Line and the appropriate law enforcement jurisdiction should be made. These notifications should prompt a comprehensive assessment of the child's safety, placement, mental health, medical, and substance abuse treatment needs.

In the following situations, MDT members shall consider utilizing the below screening tool: recovery of a runaways from foster care; children on run for 30 days or more or 3 or more times in the last 6 months; direct allegation or suspicion of trafficking; or victims seeking medical treatment for injuries suspicious of trafficking. The screening tool may also be used at various points throughout a case.

GENERAL YOUTH INDICATORS – SEX & LABOR TRAFFICKING
❑ **Recent and/or ongoing history of homelessness**
❑ **Multiple runaway attempts**
❑ **Not in control of their identification**
❑ **Not in control of money earned, owes a debt or has intense sense of financial responsibility toward family or intimate partner**
❑ **Lack of support system or supportive relationships**
❑ **Unexplained travel, purchases or access to money**
❑ **Inconsistencies in story**
❑ **Appears to be monitored, fearful, anxious**
❑ **Atypical appearance; clothing, hair, nails, jewelry**
HEALTH INDICATORS – SEX TRAFFICKING
❑ **High number of intimate partners reported for age**
❑ **Multiple terminated pregnancies**
❑ **Sexually transmitted infections/diseases**
❑ **Substance abuse**
❑ **Exhaustion and/or malnourishment**
❑ **Physical or sexual abuse**
❑ **Branding – tattoo (name, symbol) & reluctance to explain tattoo**
❑ **History of abuse or neglect**
❑ **Mental health issues such as depression, PTSD, withdraw, suicidal or self-harming tendencies, memory loss**
❑ **Physical signs of unhealthy living conditions (skin rash, poor hygiene including dental)**
RELATIONSHIP INDICATORS – SEX TRAFFICKING
❑ **Controlling intimate partner, friend or relative**
❑ **Older intimate partner**
❑ **Resides with non-relative**
❑ **Has relative or friend involved in commercial sex**
❑ **Females may struggle to maintain relationships with other females**
BEHAVIORAL INDICATORS – SEX TRAFFICKING
❑ **Multiple, prolonged runaway attempts (3+ or gone for more than 20 days)**
❑ **High levels of or increased truancy and/or curfew violations**
❑ **Poor school performance or behavior**
❑ **School performance is significantly under grade level**
❑ **Frequents websites known for sale of commercial sex (Backpage, Craigslist, Mocospace, Eros, Myscarletbook, etc.)**
❑ **Uses language of the commercial sex industry ("the life"):** • **Daddy (to describe partner)** • **Bottom (to describe female who has more control over others)** • **Family/Folks (to describe others in the life)** • **Renegade (selling sex without a controller)** • **Choosing up (going to another controller)** ***For full list of terms, please see:*** http://sharedhope.org/the-problem/trafficking-terms/
❑ **History of criminal charges related to prostitution or other charges that may occur while being trafficked (thefts, drugs, assault)**
ENVIRONMENTAL INDICATORS – SEX TRAFFICKING
❑ **Found in an area known for illegal commercial sex**
❑ **Found with men (often older males)**
❑ **Found with large amount of cash on their person**
❑ **Resides in or is found near hotels**
❑ **Sexually explicit social networking profiles**

❑ **Stays with individuals who require payment for housing them (could be sexual favors, drugs or money)**
LABOR TRAFFICKING INDICATORS
❑ **Recruited with false promises of work conditions**
❑ **Works long hours with few or no breaks**
❑ **Pay is inconsistent**
❑ **Some or all of pay goes towards debt or housing, food, etc.**
❑ **Some or all of pay is given to someone else**
❑ **Unexplained signs of injury or illness, possibly untreated**
❑ **Shows anxiety in maintaining job for duty to family, intimate partner or to pay a debt to employer**
❑ **Desperation to make a sale (magazines, beauty products, etc.) or for money while begging**

Please also refer to Appendix "J" for the Juvenile Trafficking Pre-Assessment Checklist.

2. CROSS-REPORTING

For the aforementioned civil and criminal offenses, the MDT agencies agree to cross-report and share information regarding the report of juvenile trafficking.

REPORTS TO DIVISION OF FAMILY SERVICES (DFS)

All suspected child abuse and neglect of any child, from birth to age 18, in the State of Delaware must be reported to the Division of Family Services Child Abuse Report Line (Report Line) at 1-800-292-9582.

DELAWARE CODE

Mandatory Reporting Law[116]

16 Del. C. § 903 states: "Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title…"

In addition, 16 Del. C. § 904 states: "Any report of child abuse or neglect required to be made under this chapter shall be made by contacting the Child Abuse and Neglect Report Line for the Department of Services for Children, Youth and Their Families. An immediate oral report shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, shall be made in accordance with the rules and regulations of the Division, or in accordance with the rules and regulations adopted by the Division. No individual with knowledge of child abuse or neglect or knowledge that leads to a good faith suspicion of child abuse or neglect shall rely on another individual who has less direct knowledge to call the aforementioned Report Line."

[116] *See* 16 Del. C. § 903 and 904

Special Provisions Regarding a Minor[117]

11 Del. C. § 787(g)(1) states: "A minor who has engaged in commercial sexual activity is presumed to be a neglected or abused child under 10 *Del. C.* §§ 901 et seq. Whenever a police officer has probable cause to believe that a minor has engaged in commercial sexual activity, the police officer shall make an immediate report to the Department of Services for Children, Youth and Their Families pursuant to 16 *Del. C.*§§ 901 et seq."

Penalty for Violation[118]

16 Del. C. § 914 states: "Whoever violates § 903 of this title shall be liable for a civil penalty not to exceed $10,000 for the first violation, and not to exceed $50,000 for any subsequent violation."

Any person who has **direct knowledge** of suspected abuse must make an immediate report to the Report Line. **Direct knowledge** is obtained through disclosure (child discloses to you), discovery (you witness an act of abuse), or reason to suspect (you have observed behavioral and/or physical signs of child abuse). This report may include situations where multiple disciplines are involved, such as:

- During a forensic interview for allegations of juvenile trafficking, a child makes a disclosure of other child victims being sex trafficked. MDT members must make a joint report to the Report Line.
- A child is brought to the hospital emergency department by emergency medical services (EMS) for a suspected drug overdose. The law enforcement agency was first on the scene. LE, EMS, and emergency department staff must make the call to the Report Line.

The relationship between the child and perpetrator ***does not*** influence whether a report must be made to DFS. All reports, including domestic or intra-familial, institutional, and non-domestic or extra-familial, cases must also be reported to DFS.

Additionally, a separate report must be made to the Report Line for the following reasons:

- Additional suspects have been identified;
- Additional child victims have been identified; or,
- Secondary allegations have been disclosed (i.e. initial report alleged juvenile trafficking and child later disclosed physical abuse).

If a **secondary allegation is disclosed to the CAC** during the forensic interview process, then the MDT members present shall make a joint report to the DFS Report Line prior to conclusion of the post interview meeting. However, if circumstances prevent the joint report from being made, the MDT shall

[117] *See* 11 Del. C. § 787(g)(1)
[118] *See* 16 Del. C. § 914,

select a member to make the report on behalf of the team. The designee will make the report immediately and inform the Report Line worker that he/she is making the call on behalf of the applicable MDT agencies.

If known, the following should be provided to the DFS Report Line:

- Demographic information;

- Known information about the following:
    - Child, parents, siblings and alleged perpetrator;
    - The alleged child victim's physical health, mental health, educational status;
    - Medical attention that may be needed for injuries;
    - The way the caregiver and alleged perpetrator's behavior is impacting the care of the child; and,
    - Any circumstances that may jeopardize the child's or DFS worker's safety.

- Facts regarding the alleged abuse and any previous involvement with the family.

- What you are worried about, what is working well, and what needs to happen next to keep the child safe.

Reports received by DFS will either be screened in for investigation as an intra-familial case and/or institutional abuse (IA) case or will be screened out, documented, and maintained in the DFS reporting system.

Reports screened in for investigation by DFS are assigned a priority response time as follows:
- Priority 1 (P1) – Within 24 hours
- Priority 2 (P2) – Within 3 days
- Priority 3 (P3) – Within 10 days

REPORTS TO LAW ENFORCEMENT (LE)

DFS must make an immediate report to the appropriate law enforcement jurisdiction for all civil offenses identified in the Juvenile Trafficking Protocol, including cases that screen out (e.g. extra-familial cases). The only **exception** is a dependent child that is not a runaway, not suspected of being a victim of juvenile trafficking and not considered abandoned. DFS will also document its contact with the appropriate law enforcement agency in the DFS reporting system.

LE may report to the Federal Bureau of Investigation (FBI) situations which involve multiple states or which require specialized services and support.

LE may also contact the Immigration and Customs Enforcement (ICE) and the United States Citizens and Immigration Service (USCIS), which are part of the Department of Homeland Security (DHS). ICE should be contacted to report trafficking violations involving undocumented offenders. USCIS should

be contacted regarding services for undocumented victims of juvenile trafficking. The Department of Homeland Security reports allegations of juvenile trafficking to the appropriate local and state law enforcement agencies.

DELAWARE CODE[119]

16 Del. C. § 903 states: "…In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition."

16 Del. C. § 906(e)(3) states: "The Division staff shall also contact…the appropriate law-enforcement agency upon receipt of any report under this section and shall provide such agency with a detailed description of the report received."

24 Del. C. § 1762(a) states: "Every person certified to practice medicine who attends to or treats a stab wound; poisoning by other than accidental means; or a bullet wound, gunshot wound, powder burn, or other injury or condition arising from or caused by the discharge of a gun, pistol, or other firearm, or when such injury or condition is treated in a hospital, sanitarium, or other institution, the person, manager, superintendent, or other individual in charge shall report the injury or condition as soon as possible to the appropriate police authority where the attending or treating person was located at the time of treatment or where the hospital, sanitarium, or institution is located."

Medical providers are encouraged to make an immediate report to the appropriate law enforcement jurisdiction to initiate a criminal investigation in suspected trafficking cases. The law enforcement jurisdiction will determine whether or not a criminal investigative response is appropriate and take the necessary actions.

REPORTS TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

DFS must make a report to the National Center for Missing and Exploited Children (NCMEC) within 24 hours when a child in DFS custody is reported missing or runaway. This does not preclude DFS's responsibility to file an immediate report with the local law enforcement agency. DFS will verify that the child is entered into the National Crime Information Center (NCIC) and document these activities in the DFS reporting system.

REPORTS TO DEPARTMENT OF JUSTICE (DOJ)

DFS is required to report all civil offenses identified in the Juvenile Trafficking Protocol to the appropriate division at the Department of Justice. Additionally, DFS is required to report all persons, agencies, organizations and entities to DOJ for investigation if they fail to make mandatory reports of child abuse or neglect under 16 Del. C. § 903.

[119] *See* 16 Del. C. § 903 and 906(e)(3) and 24 Del. C. § 1762(a)

LE shall call DOJ's Child Predator Unit upon receipt of allegations of juvenile trafficking to a child.

If the matter is referred to the Children's Advocacy Center for a forensic interview, the CAC will notify the DOJ, DFS, and LE of the scheduled interview as soon as possible.

DELAWARE CODE[120]

16 Del. C. § 906(e)(3) states: "The Division staff shall also contact the Delaware Department of Justice… upon receipt of any report under this section and shall provide such agency with a detailed description of the report received."

REPORTS TO THE OFFICE OF THE INVESTIGATION COORDINATOR (IC)

The Office of the Investigation Coordinator receives reports of juvenile trafficking through data exchanges with DFS and the Delaware Criminal Justice Information System (DELJIS). Additionally, all MDT members shall provide case specific information as requested by the IC. For the purposes of conflict resolution, the Office of the Investigation Coordinator may be contacted to initiate or facilitate communication with other members of the MDT.

DELAWARE CODE[121]

16 Del. C. § 906(c)(1)a. and b. state: "The Investigation Coordinator, or the Investigation Coordinator's staff, shall…have electronic access and the authority to track within the Department's internal information system and Delaware's criminal justice information system each reported case of alleged child abuse or neglect. Monitor each case involving the death of, serious physical injury to, or allegations of sexual abuse of a child from inception to final criminal and civil disposition, and provide information as requested on the status of each case to the Division, the Department, the Delaware Department of Justice, the Children's Advocacy Center, and the Office of Child Advocate."

16 Del. C. § 905(f) states: "Upon receipt of a report of child abuse or neglect, the Division shall immediately notify the Investigation Coordinator of the report, in sufficient detail to permit the Investigation Coordinator to undertake the Investigation Coordinator's duties, as specified in § 906 of this title."

16 Del. C. § 906(d)(2) and (f)(3) state: "The law enforcement agency and Delaware Department of Justice investigating a report of child abuse shall "provide information as necessary to the Investigation Coordinator to permit case tracking, monitoring and reporting by the Investigation Coordinator."

[120] *See* 16 Del. C. § 906(e)(3)
[121] *See* 16 Del. C. § 906(c)(1)a. and b., 905(f), and 906(d)(2) and (f)(3)

REPORTS TO PROFESSIONAL REGULATORY BODIES

In keeping with the following statutory requirements, certain MDT members shall make reports to professional regulatory organizations and other agencies upon receipt of reports alleging abuse or neglect by professionals licensed in Delaware.

DELAWARE CODE[122]

16 Del. C. § 906(c)(1)c. states the Investigation Coordinator or the Investigation Coordinator's designee shall: "Within 5 business days of the receipt of a report concerning allegations of child abuse or neglect by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, forward a report of such allegations to the appropriate Delaware agency or professional regulatory organization."

16 Del. C. § 906(e)(6) and (f)(4) state the Division and DOJ shall: "Ensure that all cases involving allegations of child abuse or neglect by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, have been reported to the appropriate Delaware agency or professional regulatory organization and the Investigation Coordinator in accordance with the provisions of this section."

24 Del. C. § 1731A(a) states any person may report to the Board information that the reporting person reasonably believes indicates that a person certified and registered to practice medicine in this State is or may be guilty of unprofessional conduct or may be unable to practice medicine with reasonable skill or safety to patients by reason of mental illness or mental incompetence; physical illness, including deterioration through the aging process or loss of motor skill; or excessive use or abuse of drugs, including alcohol. The following have an affirmative duty to report, and must report, such information to the Board in writing within 30 days of becoming aware of the information:

(1) All persons certified to practice medicine under this chapter;

(2) All certified, registered, or licensed healthcare providers;

(3) The Medical Society of Delaware;

(4) All healthcare institutions in the State;

(5) All state agencies other than law-enforcement agencies;

(6) All law-enforcement agencies in the State, except that such agencies are required to report only new or pending investigations of alleged criminal conduct specified in § 1731(b)(2) of this title, and are further required to report within 30 days of the close of a criminal investigation or the arrest of a person licensed under this chapter.

[122] See 16 Del. C. § 906(c)(1)c., 906(e)(6), 906(f)(4), and 24 Del. C. § 1731A(a)

3. INVESTIGATION

For the purpose of conducting an effective joint investigation, communication and coordination should occur among the MDT members as soon as possible and continue throughout the life of the case.

Upon report of suspected trafficking, DOJ, DFS, and LE will communicate and coordinate a response; however, LE will take the lead in the Joint Investigation. LE agencies needing additional resources may consult with larger jurisdictions.

For all allegations within this Protocol, the MDT will determine from the list below the appropriate investigative actions that have been identified as best practices for responding to child abuse cases.

Investigative Actions	Responsible Agency
Review Juvenile Trafficking Pre-Assessment Checklist.	MDT
Cross-report and coordinate a response between MDT members.	MDT
Contact NCMEC for missing or runaway children in DFS custody.	DFS
Establish the location(s) where the incident occurred.	LE
Identify persons involved and coordinate interviews with child, other victims, alleged perpetrator(s), and other witnesses.	LE and DFS
Exchange information regarding complaint, criminal and DFS history.	MDT
Schedule forensic interview at CAC for any child victims or child witnesses to include siblings and other children in the home.	MDT
Discuss DFS's required notification to the alleged perpetrator of the allegations. Limit the details of the allegations and the maltreatment type at the advice of the Criminal Deputy Attorney General.[123]	LE and DFS
Consider consultation with police jurisdictions with more resources.	LE
Consider utilizing federal resources, such as the FBI and DHS.	LE
Assess safety and need for out-of-home interventions of all children.	DFS
Consider Temporary Emergency Protective Custody of child and other victims.	Medical, LE and DFS
Observe and photo/video document the crime scene(s); collect evidence.	LE

[123] The federal Child Abuse Prevention and Treatment Act requires DFS to notify the alleged perpetrator of the complaints or allegations made against him or her at the initial time of contact regardless of how that contact is made (42 U.S.C. 5101 et seq).

Investigative Actions	Responsible Agency
Take photographs of child and child's injuries.	Medical
Follow Guidelines for Child Abuse Medical Response under Sexual Abuse for child and other victims in the home.	DFS, LE and Medical
Consider Hospital High Risk Medical Discharge Protocol if concerns exist about the child's safety at discharge.	Medical
Utilize victim advocates to connect children and families with appropriate mental health, substance abuse, social services and additional resources.	MDT
Complete pre-arrest intake with DOJ.	LE and DOJ
Participate in MDT meetings (i.e. case review).	MDT

INTERVIEWS

LE will conduct interviews with caregivers, alleged perpetrator(s), and other witnesses and will provide prior notice to DFS to allow for observation. Additionally, all interviews shall be audio recorded, and when practicable, video recorded by LE. DFS must receive clearance from LE before conducting follow up interviews for the purpose of gathering information relevant to the civil investigation. In the event that a LE response is delayed, DFS may obtain basic information from the family to assess the child's safety until LE arrives to conduct the interviews.

Child victims, of any age, should be interviewed at the CAC for cases that fall within the Juvenile Trafficking Protocol. Multiple interviews by multiple interviewers can be detrimental to children and can create issues for successful civil and criminal case dispositions. Use of the CAC to conduct interviews is considered best practice to minimize trauma and re-victimization of child victims and/or child witnesses.

In any investigation of criminal conduct occurring at, or related to, a facility or organization where multiple children may have been exposed to, or victimized by, a perpetrator of the conduct being investigated, the MDT must consider the potential that other children have been victimized. Thus, the MDT should schedule and conduct interviews at the CAC of all children between the age of 3 and 12 who may have been exposed to, a victim of, or a witness to the conduct being investigated. Facilities or organizations where multiple children may be exposed to criminal conduct include, but are not limited to, child care centers, schools, and youth athletic organizations. This policy is intended to both define the scope of such investigations and to provide support to children who, by mere circumstance, are, or have been, in the presence of the subject of an investigation.

If additional information is needed prior to scheduling the forensic interview with the child, the **First Responder Minimal Facts Interview Protocol** should be utilized (See Appendix A). If both LE and

DFS are present, then a lead interviewer should be identified prior to conducting the interview. This Protocol will still allow DFS to assess the child's safety through its in-house protocols while preserving the criminal investigation.

FIRST RESPONDER

Minimal Facts Interview Protocol

1. **Establish rapport**
2. **Ask limited questions to determine the following:**
   - What happened?
   - Who is/are the alleged perpetrator(s)?
   - Where did it happen?
   - When did it happen?
   - Ask about witnesses/other victims
3. **Provide respectful end**

FORENSIC INTERVIEW AT THE CAC

After making a cross-report, LE, DFS, and/or DOJ may contact the CAC in the jurisdiction where the alleged crime occurred to request a forensic interview. LE and DFS will communicate prior to contacting the CAC to determine who will make the request and the appropriate timeframe for scheduling the interview.

Forensic interviews will be scheduled on a non-urgent basis (within 5 business days) or urgent basis (within 2 business days) subject to the availability of MDT member agencies, children, and their caregivers. Please note that the CAC will accommodate after-hours interviews on an emergency basis as needed. The CAC will acquire interpreter services as needed for the child and/or family. All interviews will be video and audio recorded.

The forensic interviewer will conduct the interview utilizing a nationally recognized forensic interview protocol and forensic interview aids, as appropriate. Members of the MDT may be present for the interview based on availability. MDT members should refrain from engaging in pre-interview contact with the caregiver and child at the CAC to avoid impacting the forensic interview process.

The forensic interviewer will facilitate the CAC process. This process includes pre-interview meetings, the forensic interview, and post-interview meetings. MDT members should be prepared to discuss the following: complaint and criminal history concerning all individuals involved in the case; DFS history; prior forensic interviews at the CAC; current allegations; and strategies for the interview to include introduction of evidence to the child.

During the post-interview team meeting, the MDT may discuss interview outcomes; prosecutorial merit; next investigative steps; and medical, mental health, victim advocacy and safety needs of the child and

family. Additionally, the MDT may determine that a multi-session or subsequent interview is required based on the case circumstances and the needs of child.

If a **secondary allegation is disclosed to the CAC** during the forensic interview process, then the MDT members present shall make a joint report to the DFS Report Line prior to conclusion of the post interview meeting. However, if circumstances prevent the joint report from being made, the MDT shall select a member to make the report on behalf of the team. The designee will make the report immediately and inform the Report Line worker that he/she is making the call on behalf of the applicable MDT agencies.

When the MDT meets with the caregiver post-interview, DOJ will take the lead in sharing information related to the interview and possible criminal prosecution.

Following the post-interview meeting, the CAC Family Resource Advocate will facilitate a discussion with the caregiver about social and mental health services and other resources available for the child and/or family. Referrals will be made by the CAC as appropriate.

During the course of an investigation, a MDT meeting may be required to discuss new information obtained by any of the team members. The meeting shall be convened by the IC upon request of any team member. Otherwise, these discussions will take place at regularly scheduled MDT Case Review meetings.

If additional information is needed from the child by a MDT member, then the other team members should be contacted and a follow up forensic interview should be scheduled.

PRESERVATION OF EVIDENCE

LE will establish, examine and document the location(s) of incident as soon as practicable. The crime scene(s) and other corroborative evidence should be collected and photographed or video recorded.

Interviews by LE should be audio recorded and when practicable, video recorded. Forensic interviews with the child and siblings will be video and audio recorded at the CAC. Interviews with caregivers, alleged perpetrator(s), other witnesses, and those children not interviewed at the CAC will be audio recorded and when practicable, video recorded by LE. Any recordings created during the interview process at the CAC will be turned over to LE and LE will thereafter become the agency owning this evidence.

The sexual assault evidence collection kit will be completed by a specially trained Sexual Assault Nurse Examiner/Forensic Nurse Examiner or medical provider. Any photographs necessary to document physical injuries will be completed as part of the medical examination. Items collected by medical providers as part of the forensic evaluation (including the sexual assault evidence kits) will be turned over to LE.

TEMPORARY EMERGENCY PROTECTIVE CUSTODY

In accordance with Delaware Code, Physicians, DFS investigators, or LE may take Temporary Emergency Protective Custody of a child in imminent danger of serious physical harm or a threat to life as a result of abuse or neglect for up to 4 hours. DFS may only take Temporary Emergency Protective Custody of a child in a school, day care facility, and child care facility.
Physicians and LE must immediately notify DFS upon invoking this authority. This shall end once DFS responds.

A reasonable attempt shall also be made to advise the parents, guardians or others legally responsible for the child's care, being mindful not to compromise the investigation.

DELAWARE CODE[124]

16 Del. C. § 907(a) and (e) state: "A police officer or a physician who reasonably suspects that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and who reasonably suspects the harm or threat to life may occur before the Family Court can issue a temporary protective custody order may take or retain temporary emergency protective custody of the child without the consent of the child's parents, guardian or others legally responsible for the child's care… A Division investigator conducting an investigation pursuant to § 906 of this title shall have the same authority as that granted to a police officer or physician… provided that the child in question is located at a school, day care facility or child care facility at the time that the authority is initially exercised."

TRANSPORTATION

If the alleged perpetrator is the caregiver or is unknown, an alternative means of transportation should be provided to the child for medical examinations, forensic interviews at the CAC, and out-of-home interventions. Under these circumstances, DFS or LE may transport the child to the hospital or seek medical transport for the child, and both agencies are entitled to immunity from any liability in accordance with § 4001 of Title 10.

DFS may also transport a child under the following conditions: DFS invokes Temporary Emergency Protective Custody from a school, day care facility or child care facility; DFS obtained a signed consent from the parent; or DFS is currently awarded Temporary Custody by the Family Court.

MEDICAL EXAMINATION

A medical examination will be conducted for any child, who is the alleged victim of a juvenile trafficking report, and considered for other children residing in the home. Medical examinations may be conducted

[124] *See* 16 Del. C. § 907(a) and (e)

to identify, document, diagnose, prevent, and treat medical conditions and/or trauma (resulting from abuse and unrelated to abuse), as well as to assess issues related to patient safety and well-being.

To determine the appropriate medical response for the child and other children in the home, the MDT should follow the **Delaware Multidisciplinary Team Guidelines for Child Abuse Medical Response** (Medical Response Guidelines). Please refer to Appendix "C" for the complete version of the Medical Response Guidelines.

The Medical Response Matrix for Child Sexual Abuse cases is listed below. Please note that Step 2 of the Medical Response Matrix and any medical response which involves calling the designated medical services provider will not be implemented until the resources become available.

Abuse Fact Pattern	Medical Response	Time Frame
Any type of contact between the child or abuser involving either the child's or abuser's genitals, anus or mouth having occurred **within the past 120 hours (to encompass evidentiary and medical needs).**	**Step 1. URGENT RESPONSE directly to Sexual Assault Nurse Examiner/ Forensic Nurse Examiner Program.** **Step 2. Call designated medical services provider.** *Step 2 to be implemented at later date.*	**Step 1. IMMEDIATE** **Step 2. 24 HR**
Any child describing sexual assault of abuse with significant genital or anal pain, genital or anal bleeding, sores in the genital or anal areas, and any pre-pubertal girl with a discharge **regardless of when the last reported contact occurred.**	**Step 1. URGENT RESPONSE directly to Sexual Assault Nurse Examiner/ Forensic Nurse Examiner Program.** **Step 2. Call designated medical services provider.** *Step 2 to be implemented at later date.*	**Step 1. IMMEDIATE** **Step 2. 24 HR**
Any child suggesting a significant mental health issue such as suicidal ideation or gesture, or severe depression, **regardless of when the last reported contact occurred.**	**Step 1. URGENT RESPONSE OR EMS TRANSPORT to nearest hospital for:** **A. Necessary medical services.** **B. Necessary mental health services.** **Step 2. Call designated medical services provider.** *Step 2 to be implemented at later date.*	**Step 1. IMMEDIATE** **Step 2. 24 HR**
Contact of abuser's mouth with child's genitals or anus. (Reported by child or witnessed by another individual.)	Call designated medical services provider. *To be implemented at later date.*	24 HR
Contact of abuser's genitals with child's genitals or anus or mouth. (Reported by child or witnessed by another individual.)	Call designated medical services provider. *To be implemented at later date.*	24 HR
Contact of abuser's hands, fingers or objects with child's genital or anus. (Reported by child or witnessed by another individual.)	Call designated medical services provider. *To be implemented at later date.*	24 HR
Pre-teen sibling of a preteen child confirmed to have STD.	Call designated medical services provider. *To be implemented at later date.*	24 HR
Any child with genital and/or anal pain or discharge; lesions/bumps/ulcers; bleeding; or painful urination, regardless of type of contact reported by child.	Call designated medical services provider. *To be implemented at later date.*	24 HR
Any pre-teen child with an abnormal examination or an STD.	Call designated medical services provider. *To be implemented at later date.*	24 HR

Prior to responding to the designated hospitals to seek a medical examination for a child, DFS or LE may call the Forensic Nurse Examiner Program to request a forensic exam and to provide case specific details.

Please remember that DFS has the authority to seek a medical examination for a child victim without the consent of the child's parents or caregiver. For siblings and other children in the home, the American Academy of Pediatrics recommends a timely medical examination for siblings and other children in the home when one child is identified as a victim of abuse.

DELAWARE CODE[125]

16 Del. C. § 906(e)(7) of the Delaware Code states: "The Division shall have authority to secure a medical examination of a child, without the consent of those responsible for the care, custody and control of the child, if the child has been reported to be a victim of abuse or neglect…"

The medical examination should include written record and photographic documentation of injuries. Preliminary medical findings will be provided immediately to LE and DFS upon completion of the examination. Subsequent findings and medical records should be obtained prior to completion of an investigation.

Potential questions that should be asked of the medical provider are listed below. Avoid asking a physician whether it is "possible" that a caregiver's explanation caused the injury, because the answer will always be yes. Instead, use the words "probable, likely or consistent with" when speaking with medical providers and note that medical providers only speak in terms of probability and not absolutes.

COLLECTING THE MEDICAL EVIDENCE[126]

Questions for the Medical Provider

- What is the nature and extent of the child's injury or illness?
- What is the mechanism of injury? What type and amount of force are required to produce the injury?
- Does the history the caregiver provided explain (in whole or in part) the child's injury?
- Have other diagnoses been explored and ruled out, whether by information gathering, examination, or medical tests?
- Could the injury be consistent with an accident?
- Can the timing of the injury be estimated? To what degree of certainty?
- Have all injuries been assessed in light of any exculpatory statements?
- What treatments were necessary to treat the injury or illness?

[125] *See* 16 Del. C. § 906(e)(7)
[126] Retrieved on February 6, 2017, from Office of Juvenile Justice and Delinquency Prevention's Portable Guide to Investigating Child Abuse: http://www.ojjdp.gov/pubs/243908.pdf

- What are the child's potential risks from the abusive event?
- What are the long-term medical consequences and residual effects of the abuse?

MDT members should consider the possibility of injuries that were not reported by the child or not readily visible (i.e. internal injuries or age progression of injuries). Be mindful that minor injuries, when paired with a history of alleged abuse or neglect, may be indicative of chronic physical abuse or torture.

Prior to discharge, if concerns regarding the child's safety exist, then the medical providers may consider requesting a meeting in accordance with Hospital High Risk Medical Discharge Protocol (See Appendix D). The Protocol ensures that children (birth to age 18) with special medical needs, who are active with DFS or have been reported to DFS by Delaware hospitals, are discharged in a planned and safe manner.

In addition to the medical examination for allegations of abuse or neglect, the American Academy of Pediatrics (AAP) recommends that children in foster care receive an initial health screening within 72 hours of placement to identify any immediate medical, mental health and dental needs, and a comprehensive health evaluation within 30 days of placement to review all available medical history, to identify medical conditions and to develop an individualized treatment plan for the child. Additionally, the AAP recommends that the child receive a screening each time the placement changes.[127] The Foster Care Health Program at the Nemours Alfred I. duPont Hospital for Children is the state's specialty clinic, and DFS is responsible for making these referrals as appropriate.

SAFETY ASSESSMENT

DFS is responsible for assessing the safety of the alleged child victim and other children in the home and/or visiting the home during the course of the investigation. If safety threats are present, DFS will consider whether an out-of-home intervention is warranted by safety agreement or custody. For children placed in out-of-home interventions through a safety agreement, DFS will conduct background checks on all individuals in that home and complete home assessments.

LE will notify DFS if removal of a child appears necessary. LE should communicate concerns and information regarding the child's safety that may impact DFS interventions. DFS, not LE, is responsible for making placement decisions when safety threats are present and the child(ren) cannot remain at the current residence. As noted above, for situations in which a child is in imminent danger, then it would be appropriate for LE to take Temporary Emergency Protective Custody.

BEHAVIORAL HEALTH AND SOCIAL SERVICES

The child and family should be connected to any needed behavioral health and social services in order to reduce trauma, promote healing and improve outcomes. Child abuse and neglect can be experienced

[127] Retrieved on February 6, 2017, from Fostering Health: Healthcare for Children and Adolescents in Foster Care: https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/documents/fosteringhealthbook.pdf

as traumatic events and can have a lifelong impact on the child and the family if appropriate resources and supportive services are not provided. The social and mental health needs of all should be considered in every case and discussed as part of the MDT meetings throughout the life of the case.

The Division of Prevention and Behavioral Health Services (DPBHS) provides a wide range of individualized, trauma-informed, and community-based behavioral health services to children and families statewide. Every child residing in Delaware can be referred to prevention/early intervention and crisis services which are provided through DPBHS. To refer or receive information about these services call the DPBHS Access Unit at 1-800-722-7710 or the Crisis Service at 1-800-969-4357.

DPBHS provides the outpatient treatment and supportive services to youth who are uninsured or insured by Medicaid through an array of specialized evidence-based practices to promote the best outcomes for children and families. In the event a child needs treatment outside of his/her community (including homes and school), the DPBHS treatment continuum may include day treatment, partial hospitalization program, residential rehabilitative treatment and inpatient hospitalization services.

Children presenting with indicators of trauma who are uninsured or insured by Medicaid should be referred to the Access Unit at DPBHS. Staff in the Access Unit will collect behavioral health and substance abuse information. If the child is in need of services beyond prevention, early intervention or outpatient, staff will complete a service intensity tool (e.g. Child and Adolescent Service Intensity Instrument (CASII) and American Society of Addiction Medicine (ASAM)) and make appropriate referrals for services. For children in need of treatment with private insurance, the families should be referred to their insurance company for information about benefits and providers.

For children entering foster care, the DFS Office of Evidence-Based Practice (OEBP) will conduct a screening to assist in identifying the needed mental health services for children and their families. In addition, if a child in foster care exhibits trauma or symptoms of trauma, the caseworker will alert the OEBP for further Trauma Screening.

MDT members may connect children and their families to these and other services with the assistance of the victim advocates identified below.

VICTIM ADVOCATES

Victim advocates are responsible for identifying the needs of the child and family and connecting them to culturally appropriate resources and services. Victim advocates are available in each of the MDT agencies as follows:

- DSCYF/Division of Family Services – Domestic Violence Liaisons & Substance Abuse Liaisons
- Law Enforcement – Victim Service Specialists
- Department of Justice – Social Workers
- Children’s Advocacy Center – Family Resource Advocates
- Hospitals – Social Workers
- Federal Bureau of Investigation – Victim Service Specialist

To ensure there are no gaps in services, victim advocates will communicate with each other and coordinate with mental health and social service providers throughout the course of the investigation and beyond. The following services will be provided as needed: emergency crisis assessment and intervention, risk assessment and safety intervention for caregivers and families, information on Victims Information Notification Everyday (VINE), assistance with filing for emergency financial assistance and education regarding victim's rights, case status updates, court accompaniment, and information and referrals for appropriate social service agencies (e.g. housing, protective orders, domestic violence intervention, food, transportation, public assistance, and landlord/employer intervention).

If you suspect you have encountered a victim of trafficking, but the victim is not ready to seek help then call the National Human Trafficking Resource Center at 1-888-3737-888. For more information on human trafficking visit www.acf.hhs.gov/trafficking.

Please see Appendix "E" for agency contacts and additional service information.

ARREST

LE should call DOJ's Child Predator Unit upon receipt of allegations of juvenile trafficking to a child. Communication with DOJ should be ongoing throughout the criminal investigation and prior to charging, whenever possible to ensure the best outcome for the criminal case.

When an alleged perpetrator is arrested, a no contact order with the alleged child victim and/or other children in the home may be recommended, as a specific condition of bail and/or other conditions that may be necessary to protect the child(ren) and any other members of the community. Input from DFS should be considered and offered to the issuing judicial officer. LE and/or DFS may contact DOJ to request a modification to the contact conditions of bail. Regardless of contact conditions of bail, DFS will consider an in-home intervention or an out-of-home intervention once safety threats are identified, including safety agreements, custody and placement needs.

Before clearing a case without an arrest, LE consultation with DOJ shall occur. LE will notify DFS upon case closure.

CRIMINAL PROCEEDINGS

DOJ may review the following information (both current and historical):

- All police reports and any other information obtained during the investigation concerning all individuals involved in the case;
- All non-redacted DFS records;
- All medical records pertaining to the child;
- All CAC records; and,
- Inventory and/or copies of any evidence.

The Deputy Attorney General (DAG) will evaluate the case to determine prosecutorial merits and will collaborate with LE to identify additional investigative actions as appropriate.

When two or more Divisions (typically Family & Criminal) within DOJ are involved with a particular case, the DAGs will coordinate with each other to ensure the most appropriate legal outcomes are achieved. The Civil and Criminal DAGs shall communicate regularly regarding the case status. The DAG prosecuting the criminal matter will take the lead in this process.

Before resolution of a criminal proceeding, DOJ should confer with DFS, on active cases, regarding issues impacting child safety, such as vacating the No Contact Order and potential impact to a civil substantiation proceeding prior to completion of the civil investigation. This discussion should also include recommended services and/or evaluations for the perpetrator and child. Upon a criminal conviction where the civil case was unfounded and closed, the Criminal DAG will notify the Civil DAG.

CIVIL DISPOSITION

DFS makes a determination as to whether abuse or neglect has occurred within 45 calendar days. Upon completion of the civil investigation, DFS will make a finding once it has established that a preponderance of the evidence exists; the civil finding is not dependent upon the status or outcome of the criminal case.

DFS is required to give written notice to the alleged perpetrator of its finding. Recognizing that this notice to the alleged perpetrator may impact an active criminal investigation, DFS shall contact LE/DOJ prior to case closure in order to maintain the integrity of the case.

DELAWARE CODE[128]

16 Del. C. § 924(a)(2)(b) of the Delaware Code states: "[The Division shall] advise the person that the Division intends to substantiate the allegations and enter the person on the Child Protection Registry for the incident of abuse or neglect at a designated Child Protection Level."

In addition to the DFS investigation, there may be a civil proceeding in the Family Court, such as if DFS petitions for temporary custody of a child or if the alleged perpetrator appeals a finding by DFS and a Substantiation Hearing is scheduled.

MDT members may be subpoenaed to testify in civil proceedings and/or provide case documentation or evidence subject to any relevant statutory provisions and Court rulings as to the confidentiality and admissibility of said evidence.

[128] *See* 16 Del. C. § 906(e)(7)

4. MDT CASE REVIEW

MDT Case Review is the formal process in which the team convenes regularly scheduled meetings in each county to monitor and discuss the case progress, which may include the following:

- Review interview outcomes;
- Discuss, plan and monitor the progress of the investigation;
- Review any medical examinations;
- Discuss child protection and other safety issues;
- Provide input for prosecution and sentencing decisions;
- Discuss emotional support and treatment needs of the child and family members as well as strategies for meeting those needs;
- Assess the families' reactions and response to the child's disclosure and involvement in the criminal justice and/or child protection systems;
- Review criminal and civil case updates, ongoing involvement of the child and family and disposition;
- Make provisions for court education and court support;
- Discuss ongoing cultural and special needs issues relevant to the case; and,
- Ensure that all children and families are afforded the legal rights and comprehensive services to which they are entitled.

MDT Case Review may include representatives from the following disciplines: CAC, DFS, DOJ, IC, LE, medical, mental health, and victim advocates.

Please see Appendix "F" for an example of a MDT Case Review Protocol utilized in Delaware.

5. CONFIDENTIALITY, INFORMATION SHARING & DOCUMENTATION

The Child Abuse Prevention and Treatment Act (CAPTA) requires that states preserve the confidentiality of all reports and records pertaining to cases that fall within this MOU to protect the privacy rights of the child and family.[129] However, exceptions are permitted in certain limited circumstances, and the Delaware Code provides guidance on who may access the information.

DELAWARE CODE[130]

16 Del. C. § 906(e) states: "The Division shall only release information to persons who have a legitimate public safety need for such information or a need based on the health and safety of a child subject to abuse, neglect or the risk of maltreatment, and such information shall be used only for the purpose for which the information is released."

[129] Retrieved on February 6, 2017, from Child Welfare Information Gateway's Factsheet Disclosure of Confidential Child Abuse and Neglect Records: https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/confide/
[130] *See* 16 Del. C. § 906(e)

MDT members are **authorized and encouraged** to communicate information with one another pertaining to families and children in a legal, ethical, professional, and timely manner throughout the course of an investigation in accordance with agency policies and existing agreements (e.g. MOUs). As noted above, applicable state and federal confidentiality laws apply.

To obtain records, the requesting MDT agency must contact the MDT agency from which the records originated. **Information may be shared between MDT agencies; however, records shall only be disseminated by the agency owning those records.** Mental health and substance abuse records are afforded a stricter level of protection under state and federal statutes requiring consent of the parent or pursuant to a subpoena issued by DOJ.

If a criminal or civil proceeding is pending, DOJ may also issue a subpoena for records or for court testimony.

Documentation should be specific to case facts and should not include information related to the opinions of the MDT members (i.e., the initial concerns of the investigator as to the strength, strategy, or course of the criminal investigation).

6. CONFLICT RESOLUTION

The MDT shall make every effort to resolve disputes through discussion and negotiation at the lowest levels of the agencies. If the dispute cannot be resolved at this level, then the MDT members involved in the dispute shall contact their individual supervisors for assistance. Once the chain of command is exhausted or at the request of one of the supervisors, a team meeting may be scheduled. Additionally, the Investigation Coordinator's Office may be contacted to initiate or facilitate communication with other members of the MDT.